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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,221	11/01/2000	James N. Rees	09765-020001	2654

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225 FRANKLIN ST  
BOSTON, MA 02110

EXAMINER
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NGUYEN, PHUOC H

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/704,221

Applicant(s)

REES, JAMES N.

Examiner

Phuoc H. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-21 rejected under 35 U.S.C. 102(e) as being anticipated by Iyengar et al. U.S. Patent 6,360,205.

3. Referring to claims 1,10, and 14, Iyengar reference disclose transmitting an executable to a remote location over a network (col. 15, lines 47-61); generating data, wherein at least part of the data is generated while the executable is being transmitted, and transmitting the generated data to the remote location over the network (col. 15, lines 47 through col. 16, lines 13).

4. Referring to claims 2, and 15, Iyengar reference disclose a client at the remote location receives the transmitted executable and the generated data and the client includes a client

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processor that executes the executable to process the data (col. 15, lines 48 through col. 16, lines 3).

5. Referring to claims 3, and 16, Iyengar reference disclose the transmitted executable is received by the client before the generated data is received and the executable causes the client computer to indicate that client computer is waiting for the data (Figure 9; col. 11, lines 18-25).

6. Referring to claims 4, and 17, Iyengar reference disclose a first portion (Figure 9; continental airline) of the generated data is received by the client before a second portion (Figure 9; united, American, or Alaska airline) of the generated data and the executable causes the client to indicate that the first portion has been received before the second portion is received (Figure 9; status result from airline searching the 64% is the indication of the status).

7. Referring to claims 5,11, and 18, Iyengar reference disclose a first portion of the generated data is received by the client before a second portion of the generated data and the executable causes the client processor to process the first portion before the second portion is received (col. 16, lines 31-45; and col. 17, lines 66 through col. 18, 1<sup>st</sup> paragraph).

8. Referring to claims 6, and 19, Iyengar reference disclose a first portion of the data is generated before a second portion of the data and at least part of the first portion of the data is transmitted while the second portion is being generated (Figures 8-10).

9. Referring to claims 7,12, and 20, Iyengar reference disclose the information is transmitted in response to a request for information (Figure 10; col. 11, lines 18-35).

10. Referring to claims 8,13, and 21, Iyengar reference disclose the generated data is transmitted in response to a request for data separate from the request for information (Figures 4A, 8-10).

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11. Referring to claim 9, Iyengar reference disclose transmitting to the remote location a web page containing a directive to a web browser to request the executable (Figure 20A, 2008) and receiving a request for the executable from the web browser, wherein the executable is transmitted to the remote location in response to the request for the executable (col. 17, lines 3-28).

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**House et al. U.S. Patent 6,188,400**

**Jawahar et al. U.S. Patent 6,151,357**

**Headrick et al. U.S. Patent 6,557,006**

**Pullen et al. U.S. Patent 6,286,050**

**Hamilton et al. U.S. Patent 6,697,848**

**Krishnan et al. U.S. Patent 6,073,124**

**Rogers et al. U.S. Patent 6,604,135**

**Brown U.S. Patent 6,368,273**

**Andersen U.S. Patent 5,999,941**

**Marmor U.S. Patent 6,601,108**

**Powlette U.S. Patent 6,489,954**

**Himmel et al. U.S. Patent 6,317,782**

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 703-305-5315. The examiner can normally be reached on Mon -Thu ( 7AM-4:30PM ) and off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuoc H. Nguyen  
Examiner  
Art Unit 2143

March 3, 2004

  
**DAVID WILEY**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**